

Berry, Wayne 5/18/2005

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF HAWAII

3

4 WAYNE BERRY, a Hawaii)CIVIL NO. CV03-00385 SOM LEK
citizen;) (Copyright)

5)

6 Plaintiff,)

7)

8 vs.)

9 HAWAIIAN EXPRESS SERVICE,) Volume 1
INC., a California)

10 corporation; et al.,)

11)

12 Defendants.)

13)

14

15

16 DEPOSITION OF WAYNE BERRY,
17 taken on behalf of the Defendant, Post-Confirmation
18 Trust, at the Law Offices of Kobayashi, Sugita & Goda,
19 999 Bishop Street, Suite 2600, Honolulu, Hawaii,
20 96813, commencing at 8:59 a.m., on Wednesday, May 18,
21 2005, pursuant to Notice.

22

23

24 BEFORE: Julie A. Peterson, CSR #361, CRR, RMR
25 Registered Professional Reporter
Notary Public, State of Hawaii

26

27

28 Ali'i Court Reporting
29 2355 Ala Wai Blvd., Suite 306
30 Honolulu, Hawaii 96815
31 (808) 926-1719

EXHIBIT "A"

Berry, Wayne 5/18/2005

1 APPEARANCES:

2

3

4 For the Plaintiff: TIMOTHY J. HOGAN, ESQ.

5 Lynch Ichida Thompson Kim & Hirota
1132 Bishop Street, Suite 1405
Honolulu, Hawaii 96813

6

7

8 For the Defendant Post-Confirmation Trust:

9 LEX R. SMITH, ESQ.
10 ANNE E. LOPEZ, ESQ.
11 Kobayashi, Sugita & Goda
First Hawaiian Center
999 Bishop Street, Suite 2600
Honolulu, Hawaii 96813

12

and

13

14 ERIC C. LIEBELER, ESQ.
15 DAMIAN D. CAPOZZOLA, ESQ.
Kirkland & Ellis LLP
777 South Figueroa Street
Los Angeles, California 90017

16

17

18

For the Defendants Mark Dillon, Teresa Noa and Brian
19 Christensen, et al:

20 LYLE S. HOSODA, ESQ.
21 RAINA P.B. MEAD, ESQ.
Lyle S. Hosoda & Associates
345 Queen Street, Suite 804
Honolulu, Hawaii 96813

22

23

24

25

Berry, Wayne 5/18/2005

of relevance again. I don't see this has anything to do with the pending litigation, and I think it's time that we contact the master and ask him if he can take some time off today and attend.

And I'll further state for the record that the purpose of this is for Mr. Liebeler and his firm to find out where evidence of a crime committed by his client is so they can destroy the evidence. That's why it's being asked. That's why it's objectionable.

MR. LIEBELER: You're absurd, Mr. Hogan,
absolutely absurd.

MR. HOGAN: Perhaps you can make some foundation for your request, then, Mr. Liebeler.

MR. LIEBELER: The foundation for my request is
Mr. Berry is suing Fleming in litigation in various places. That's going to come in at trial in this case. He has a vendetta against my client. The jury is perfectly entitled to hear that.

MR. HOGAN: As to the location of his records is irrelevant to that. And, again, I renew my statement --

MR. LIEBELER: Because I'm going to be permitted to find those records for purposes of assessing the merits of that litigation for purposes of showing it's meritless here.

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

I, Julie A. Peterson, Notary Public, State of Hawaii, do hereby certify:

That on May 18, 2005, commencing at 8:59 a.m., appeared before me Wayne Berry, the witness whose deposition is contained herein; that prior to being examined he was by me duly sworn; that the deposition was taken in machine shorthand by me and thereafter reduced to typewriting under my supervision; that the foregoing represents, to the best of my ability, a true and correct transcript of the proceedings had in the foregoing matter.

That the deponent was notified through counsel, by mail or by telephone, to appear and sign; that if the transcript is filed without signature, deponent has failed to appear and the transcript is therefore kept on file without signature pursuant to Court rules.

I further certify that I am not attorney for any of the parties hereto, nor in any way interested in the outcome of the cause named in the caption.

Dated at Honolulu, Hawaii, this 21st day of May, 2005.

NOTARY PUBLIC, STATE OF HAWAII
My Commission Expires: 9/1/2006

